

Nick Caiazza

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

PERMIT*



The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 0506-91-0020.5 & .6	Application No. 0506-91-0020.5 & .6
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Issuance Date NOV 21 2001	Effective Date NOV 21 2001	Expiration Date NOV 21 2006
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Name and Address of Applicant Attn: Nick Caiazza NJ Department of Transportation 1035 Parkway Ave. Trenton, NJ 08625	Name and Address of Owner NJ Department of Transportation 1035 Parkway Ave. Trenton, NJ 08625	Name and Address of Operator Applicant
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Location of Activity/Facility (Street Address) Route 47, Rio Grande Middle Township, Cape May County Lot: N/A Block: N/A	Issuing Division Land Use Regulation Program	Statute(s) NJSA 13:19-1 et seq. NJSA 13:9A-1 et seq.
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Type of Permit: CAFRA, Coastal Wetlands, Water Quality Certificate	Maximum Approved Capacity, if applicable
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This permit grants permission to:

Construct road improvements to Route 47 (Delsea Drive) including the construction of a center two-way left-turn lane, exclusive left-turn lanes and larger corner radii at three signalized intersections, alteration of access to adjacent properties, construction of curb and sidewalk, replacement and upgrade of storm sewer system, and the disturbance of 250 square feet of coastal wetlands.

All work is to be done as shown on plans entitled:

- "New Jersey Department of Transportation, Environmental Plans, Route 47, Section 1C", sheets 1-18 of 18, no date, and prepared by Urban Engineers, Inc.
- "New Jersey Department of Transportation, Drainage and Grading Plans, Route 47, Section 1C", sheets 1-17 of 17, no date, and prepared by Urban Engineers, Inc.
- "New Jersey Department of Transportation, Project Layout, Route 47, Section 1C", no date, and prepared by Urban Engineers, Inc.
- "New Jersey Department of Transportation, Water Quality Basin, Route 47, Section 1C", no date, and prepared by Urban Engineers, Inc.

This work is conditionally acceptable under the Rules on Coastal Zone Management (N.J.A.C. 7:7E-1.1 et seq.), specifically: - Wetlands (7:7E-3.27), and Stormwater Management (7:7E-8.7)

Prepared by: Patrick M. Hickey
Patrick M. Hickey
Sr. Environmental Specialist

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Revised Date	Approved by the Department of Environmental Protection Name (Print or Type) _____ Title _____ Signature <u>SEE LAST PAGE OF PERMIT</u> Date _____
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*The word permit means "approval, certification, registration, etc."

(General Conditions are on Page Three)

This permit is issued subject to and provided the following conditions can be met to the satisfaction of the Land Use Regulation Program.

GENERAL CONDITIONS:

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.
2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.
3. The works, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.
4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.
5. The granting of this permit shall not be construed to in any way affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.
6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.
7. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.
8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.

PHYSICAL CONDITIONS:

1. The permittee shall install all appropriate soil erosion and sediment control measures prior to commencement of site preparation and shall maintain the control measures in good condition until the site has been permanently stabilized.
2. The permittee shall submit revised plans for review and approval by the Program prior to construction which show two additional stormwater management water quality control devices. Specifically, the devices should be located in positions that will trap TSS prior to discharge to water quality basin and also prior to discharge to the coastal wetland area.
3. The permittee shall submit a landscaping plan for review and approval by the Program prior to construction. The landscaping plan shall include groundwater base flow elevations, a description of the soil conditions, species composition and construction techniques.
4. The stormwater management systems shall be maintained as follows:
 - (1) Visual inspection of all components of the stormwater management system at least twice each year.

- (2) Removal of silt, soil, litter, and other debris from all water quality control devices and inlets at least once each year, or more frequently if needed to maintain the proper function and efficiency of the water control devices.
- (3) Maintenance, and replacement (if necessary) of all landscape vegetation within the basins, at least once each year.
- (4) Removal of silts from within the basins at least once each year, or more frequently if noticeable buildup occurs, for disposal in an acceptable location. Silt and litter shall be removed by hand from the water quality basin so as not to disrupt the established flora and fauna.
5. Prior to construction the applicant shall submit for review and approval by the Program a mitigation plan, to compensate for the disturbance of the coastal wetland area associated with the stormwater outfall (see mitigation conditions below).
6. The Permittee shall follow the planting guidelines established in "Landscaping for Birds on NJ's Barrier Islands" which is produced by the Division of Fish Game and Wildlife and the USDA.
7. The permittee shall provide verification that the Mosquito Control Commission has approved the water quality basin. This basin shall be stocked with small fish in order to control the mosquito larva population.
8. Inlet filters, silt fencing and maintenance specifications shall be included in the project documents and plans that will be part of the construction contract.

ADMINISTRATIVE CONDITIONS:

1. This permit shall be RECORDED in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES in the applicable counties) in the county wherein the lands included in the permit are located within ten (10) days after receipt of the permit by the applicant and verified notice shall be forwarded to the Land Use Regulation Program immediately thereafter.
2. This permit is NOT VALID until the permit acceptance form has been signed by the applicant, accepting and agreeing to adhere to all permit conditions, and returned to the Land Use Regulation Program at PO Box 439, Trenton, NJ 08625.
3. This permit does not obviate you from obtaining any other necessary federal or local approvals.

MITIGATION CONDITIONS:

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of 250 square feet of emergent wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 2 below.
2. For an on-site or off-site individual mitigation project the permittee must submit a mitigation proposal to the Land Use Regulation Program, to create, enhance or restore an area of freshwater wetlands of equal ecological value to those, which will be lost by the authorized activity for review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal. If the permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a 30 foot transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation off-site.


- a) Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.
- b) Once the Program has approved the conceptual plan of the mitigation project the permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.
- c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.
- d) In accordance N.J.A.C. 7:27E-B.1(a)16, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.
- e) The permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal.
- f) The permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Program.
- g) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction.
- h) Immediately following the final grading of the mitigation site and prior to planting, the permittee shall notify the Program for a post-grading construction meeting between the permittee, contractor, consultant and the Program.
- i) Immediately following final grading and planting of the wetland mitigation project, the permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the permittee shall submit as built plans of the site and photos with a photo location map of the completed project.
- j) The permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.
- k) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.
- l) The permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).

m) All monitoring report will include all the following information (see attached monitoring report checklist):

- i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);
 - ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent areal coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. If the permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent areal coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent areal coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;
 - iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species such as but not limited to *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Pueraria lobata* (Kudzu), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail), *Lythrum salicaria* (Purple loosestrife), *Ailanthus altissima* (Tree-of-heaven), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiflora* (Multiflora rose). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.
 - iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and
 - v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.
- n) Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:

- i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows that at least 500 square feet of emergent wetlands have been created/restored/enhanced;
 - ii. The site has an 85 percent survival and 85 percent areal coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;
 - iii. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Pueraria montana* (Kudzu), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail), *Lythrum salicaria* (Purple loosestrife), *Ailanthus altissima* (Tree-of-heaven), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiflora* (Multiflora rose);
 - iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
 - v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.
- o) All remaining financial surety, if required, will be released concurrent with the Program notifying the permittee that the mitigation project is a success.
 - p) If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the permittee satisfies the success criteria as stipulated in item (m).

Approved By:


Christopher M. Dolphin, Regional Supervisor
Bureau of Coastal Regulation

11/21/01
Date

cc:

NJDEP, Bureau of Coastal & Land Use Compliance & Enforcement, Toms River
Township of Middle Construction Official
Township of Middle Clerk